

## **REMARKS**

Applicant has amended the claims to recite that the claimed parbaked crust has a square or rectangular aspect with a symmetry as the crust is rotated around a central point. This amendment is supported by paragraph [0024] of the published application and in claim 5 as filed. No new matter is added to the claim by way of amendment. Claim 3 is amended to recite that the square crust has a four-fold symmetry. This amendment is supported at paragraph [0012] of the application as filed. Applicants thank the Examiner for withdrawing the rejections under 35 U.S.C. §112, first and second paragraphs.

The Examiner has rejected claims 1-2, 6, 7-9, 11, 14, 15, 16, 18-21, 45-57, and 52 under 35 U.S.C. §103(a) over Alessandro (EPA 0691078) in view of Stangroom (U.S. Patent No. 3,975,522), Vagani (U.S. Patent No. 5,441,751), McDaniel (U.S. Patent No. 5,968,566) and Ricke (U.S. Design Patent No. D 376,466.). The claims recite a specific square or rectangular design aspect that has a symmetrical feature with a registration means in the edge. This combination of unique structural features is functional is used to improve manufacture and is not found in the prior art. There is nothing in the prior art that suggests the use of the formulations of the other references in such a shaped and symmetrical pizza. For these reasons, Applicants respectfully traverse the rejection.

As shown in claims 1 and 11, the invention is directed to a pizza crust that combines a specific formulation, registration means and a symmetrical crust shape. The crust also includes a registration means engaging edge on the perimeter of the crust. This particular shape, registration, functional features are not simply decorative. The shape and registration means that are combined in the crust enable the crust to be efficiently processed. The registration means can interact with a conveyer belt and locate the crust precisely along a conveyer belt. The precise location of the crust enables the manufacturer of precisely registered sauce, cheese and other condiments on the crust permitting the manufacturer to add the materials to the crust accurately to the edge without spillage or waste. The rectangular or square aspect of the crust permits the manufacturer of a crust that is efficient to make but after baking appears to be hand thrown or pizzeria made. While at least two edges of the crust are identical in order to obtain the symmetry and registration means required, the edges are substantially irregular when made and as such

when baked retain an irregular aspect and appear to be hand thrown or pizzeria prepared. The Examiner has cited a number of references (Alessandro, Stangroom, Vagani and McDaniel) that teach a variety of different formulations for pizza crust. The Examiner cites Ricke for the design of the crust shape and symmetry.

The Applicants will first discuss the shape of the pizza crust. The Examiner states in the rejection:

"It would have been obvious to one skilled in the art to shape the crust in any design wanted. This would have been an obvious matter of preference. Pizza crust having ornamental design is known in the art as exemplified by the Riche et al disclosure. Variation in design without any effect on the functionality of the product would have been an obvious matter of choice. Ricke et al show pizza having a scallop edge with line segments. It would have been obvious to one skilled in the art to vary the appearance of the edge to obtain different pattern of pizza crust. This is a variation is [*sic*] design without any effect on the functionality of the product. Variation in design would have been an obvious matter of choice. When the edge is not a straight line but a different pattern as shown by Ricke et al, then part of the surface departs from the planar surface of the crust. It would have been obvious to one skilled in the art to vary the edge and the degree of departure depending on the pattern desired. It is obvious the edge having a pattern will acquire toast mark when baked. It would have been [*sic*] to have these mark [*sic*] to resemble any product depending on the look wanted. It would have been obvious to form the edge in any dimension depending on the size of the crust desired."

The Examiner's major argument is that the shape is simply optional and has no functionality. Applicants strongly disagree.

The claims require a square or rectangular aspect with edges on the crust that obtain a symmetry. This symmetry is shown in the rotation of the crust such that the crust edges are superimposable when rotated. In the square pizza, all the crust's edges are irregular but are identical as rotated around a central point. In a rectangular crust, the opposite edges in the crusts

are identical such that the edges are superimposable when rotated around the center. The crust edges also includes at least a registration means that helps position the crust on the conveyer during filling operations. This crust symmetry and registration means are entirely functional and provide efficient filling and reduced waste in pizza production. Accordingly, these aspects are functional and are simply not decorative options as argued by the Examiner.

Only Ricke shows a shaped crust. The design shown in the Ricke patent is circular and is scalloped. A brief review of the scalloped edges shows that none of the scallops are identical and cannot be superimposed in any mode of rotation. Accordingly, the Ricke patent does not teach either a square/rectangular crust or any aspect of symmetry or a registration means as claimed.

The Examiner has selected a number of references that show specific formulations for the pizza crust. The Examiner, however, has not provided any reason why one of ordinary skill in the art would choose the specific compositions for Applicant's symmetrical pizza crust.

Accordingly, Applicants assert that independent claims 1 and 11 are allowable as written and all dependent claims are similarly allowable.

The Examiner has rejected claims 3-5, 12 and 13 under 35 U.S.C. §103 over the primary references further in view of Kordic (United States Patent No. 5,417,150). The Examiner asserts that since Kordic shows a round, square or rectangular mold, that Kordic teaches the shape of the pizza as claimed. The reference does not teach a specific shape to achieve manufacturing efficiency. Applicants respectfully traverse the rejection.

Kordic does not teach or suggest the irregular edges and the symmetry required by the claims. Kordic et al further fails to teach the registration means required by the claims.

Kordic teaches that the pizza can have virtually any shape. Accordingly, it would not necessarily be obvious to depict any particular square or rectangular shape and in particular would not be obvious to use a symmetrical irregular edge with a registration means.

The Examiner also rejected claims 10 and 17 under 35 U.S.C. §103 over the primary references further in view of Pescheck et al (United States Patent No. 5,576,036). Applicants

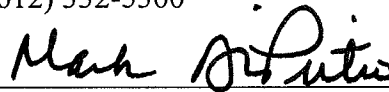
assert that independent claims 1 and 11 are allowable. Pescheck adds nothing to the art with respect to the symmetry, registration means and fomulation of the crust. Accordingly, the claims are allowable in view of any combination of the primary references on Pescheck.

Since the prior art suggested by the Examiner does not show a square or rectangular crust with an irregular edge but having a symmetrical aspect and a registration means, Applicants assert that the rejection does not obtain a prima facie case of obviousness.

In view of the above amendments and remarks, Applicant respectfully requests a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

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Date: December 6, 2007

